



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,862	07/24/2001	Jeffrey Krolik	1001.1507101	6194

28075 7590 06/23/2003

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

EXAMINER

NGUYEN, VI X

ART UNIT	PAPER NUMBER
----------	--------------

3731

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/912,862

Applicant(s)

KROLIK ET AL.

Examiner

Victor X Nguyen

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 5,8-20 and 24-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3,6,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species II of Group 1, claims 1-10 and 21-27, in Paper No. 10 is acknowledged. But examiner disagrees that all of claims 1-10 and 21-27 read on Species II of Group 1. Claim 5 is drawn to Specie III. Claims 8-10 and 24-27 are drawn to Specie VI. To further the prosecution of the application, the examiner has elected claims 1-4, 6-7 and 21-23, which read on Species II of Group 1. Non-elected claims 5, 8-20 and 24-27 are withdrawn from further consideration.

The requirement is still deemed proper and is therefore made **Final**.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-7 and 21-23 are rejected under 35 U.S.C. 102 (e) as being anticipated by Hopkins et al (6,544,279).

Regarding claim 1, figures 22b, 22c, abstract and col. 21, lines 55-67, col. 22, lines 1-60, Hopkins et al disclose a device for filtering and aspirating emboli having all the limitation as recited in the above listed claim, including: a vascular filter (550) has a blood-permeable element (570) disposed on a guidewire (556). The catheter (560 is considered a catheter) has proximal and distal end, wherein a lumen extends between the proximal and distal openings. The catheter

Art Unit: 3731

(560) is advanced along the guidewire (556) to a location in the vessel in the vicinity of the vascular filter (550).

Regarding claims 2-3, wherein the distal end of the catheter has the distal opening which enters the blood-permeable element (570); and wherein the distal opening of the catheter has the vascular filter (550) which may be partially retracted in the lumen of the catheter (560).

Regarding claims 4 and 6-7, wherein the distal end of the catheter is curved (figs 22b, 22c); and wherein the catheter includes a rapid exchange and includes an over the wire device (fig. 22b and col. 3, lines 32-36).

Regarding claim 21, figures 22b, 22c, abstract and col. 21, lines 55-67, col. 22, lines 1-60, Hopkins et al disclose a device for filtering and aspirating emboli having all the limitation as recited in the above listed claim, including: a catheter (560); a guidewire (556); and wherein the catheter (560) is advanced along the guidewire (556) to a location in the vessel.

Regarding claims 22 and 23, wherein the vascular filter (550) disposes on the guidewire (556). The vascular filter includes a blood permeable element; and wherein the nose cone (fig. 21b, item 486) is coupled to the blood permeable element (28).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,152,946 to Broome

U.S. Pat. No. 6,565,591 to Brady

U.S. Pat. 6,179,861 to Khosravi

U.S. Pat. No. 6,371,970 to Khosravi

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (703) 305-4898. The examiner can normally be reached on M-F (8-4.30 P.M).

Art Unit: 3731

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Victor X Nguyen
Examiner
Art Unit 3731

vn ✓
June 9, 2003



MICHAEL J. MILANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700